

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
SHAWN BURKHALTER,)
)
Defendant.)

ORDER

Before the Court is Magistrate Judge Counts' Report and Recommendation (Doc. #1419) denying Defendant Burkhalter's motion to suppress the results of cell phone searches (Doc. #1087), specifically, in regard to the gray Samsung cell phone.

On September 23, 2022, Judge Counts held an evidentiary hearing on Defendant's motion. (Doc. #1263) and issued the Report and Recommendation on June 5, 2023. (Doc. #1419). The Report and Recommendation "recommends a finding that Defendant Burkhalter did not have an expectation of privacy in the Samsung phone as he did not own the phone and never possessed or used the phone." (Doc. #1419). Defendant did not object to the Report and Recommendation and the time to do so has passed. After an independent review of the record, the applicable law, and the parties' arguments, the Court adopts Magistrate Judge Counts' findings of fact and conclusions of law. Accordingly, it is hereby

ORDERED for the reasons stated in the Report and Recommendation (Doc. #1419), Defendant's motion to suppress the results of cell phone searches (Doc. #1087), specifically, in regard to the gray Samsung cell phone, is DENIED. It is further

ORDERED that Magistrate Judge Counts' Report and Recommendation (Doc. #1419) be attached to and made part of this Order.

IT IS SO ORDERED.

DATED: June 21, 2023

/s/ Brian C. Wimes
JUDGE BRIAN C. WIMES
UNITED STATES DISTRICT COURT